



2016-030

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

April 6, 2016

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable Cassie T. Jones
Executive Director
Alabama Crime Victims Compensation Commission
Post Office Box 231267
Montgomery, Alabama 36123-1267

Crime Victims Compensation Commission
– Open Meetings Act of 2005 – Electronic
Participation – Quorum

Having two members of the Alabama Crime Victims Compensation Commission (“Commission”) physically present at the location of the Commission’s meetings satisfies the requirements of subsection (e) of section 1 of Act 2015-526, except when the Commission engages in activities specified under subsection (d), including the promulgation of rules, that require the physical presence of the members.

Dear Dr. Jones:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Does having two members of the Alabama Crime Victims Compensation Commission physically present at the Commission’s meeting location satisfy subsection (e) of section 1 of Act 2015-526, which requires “a majority of a quorum” of the members to be physically present at the meeting location?

FACTS AND ANALYSIS

The Open Meetings Act of 2005 (“OMA”) is codified in section 36-25A-1, *et seq.*, of the Code of Alabama. ALA. CODE §§ 36-25A-1 to 36-25A-11 (Supp. 2015). The purpose of the OMA was to help provide the public with transparency in regards to the governmental process. The act applies to “meetings of a governmental body” and requires all meetings of a governmental body to be open to the public. ALA. CODE § 36-25A-1(a) (Supp. 2015).

On August 14, 2015, the Legislature enacted Act 2015-526, which is now codified in section 36-25A-5.1 of the Code of Alabama. ALA. CODE § 36-25A-5.1 (Westlaw 2016). For governmental bodies that have members in two or more counties, the act allows members of governmental bodies to participate in meetings and deliberation via electronic communications under certain circumstances to satisfy the requirements of the OMA. Therefore, under certain circumstances, members of governmental bodies are not required to be physically present to participate in meetings and deliberation.

Subsection (a) of section 1 of the act provides that telephonic or video participation in meetings of government bodies is permissible “except for the establishment of a quorum.” 2015 Ala. Acts No. 2015-526. A minimum physical-presence requirement to establish a quorum is set forth in subsection (e) of section 1 of the act. It provides the following:

[A] majority of a quorum of the members participating in any given meeting shall be physically present at the location noticed and called for the meeting in order to conduct any business or deliberation, and only those members who are physically present may participate in an executive session of the governmental body.

2015 Ala. Acts No. 2015-526 (emphasis added). You have asked whether the physical presence of two members of the Alabama Crime Victims Compensation Commission at the location of the Commission’s meetings satisfies this provision.

Absent a clearly expressed legislative intent to the contrary, the language of the statute is conclusive. *Ex parte Weaver*, 871 So. 2d 820, 823-24 (Ala. 2003). Words must be given their natural, ordinary, commonly understood meaning, and where plain language is used, the court is bound to interpret that language to mean exactly what it says. *Id.*

The Commission consists of three members. ALA. CODE § 15-23-4(a) (2011). “Any two members of the commission shall constitute a quorum for

purposes of transacting the business of the commission” ALA. CODE § 15-23-4(h) (2011). If a quorum consists of two of the three members of the Commission, then literally “a majority of a quorum” is not a majority of the total members but a majority of the two-member quorum. There cannot, however, be a majority of a two-member quorum (i.e., two people cannot be divided into a majority). Thus, although the Commission cannot satisfy subsection (e) of section 1 of the act with less than a majority of a quorum of its members physically present (i.e., one member), it can satisfy that section with more than a majority of a quorum, or two members.

This Office notes that subsection (d) of section 1 of the act prohibits certain governmental bodies from participating in electronic meetings. In addition, that provision extends the restriction to state bodies when they are acting in a quasi-judicial capacity involving an employment action, promulgating rules, or holding an administrative hearing. Nothing in this opinion shall be construed to undermine the effect of subsection (d) of section 1 of the act.

CONCLUSION

Having two members of the Alabama Crime Victims Commission physically present at the location of the Commission’s meetings satisfies the requirements of subsection (e) of section 1 of Act 2015-526, except when the Commission engages in activities specified under subsection (d), including the promulgation of rules, that require the physical presence of the members.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Allen Mendenhall of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

A handwritten signature in dark ink, appearing to read "G. Ward Beeson, III". The signature is fluid and cursive, with the last name "Beeson" being more prominent.

G. WARD BEESON, III
Chief, Opinions Section